

**UNITED STATES DISTRICT COURT
THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: DAVOL, INC./C.R. BARD,
INC., POLYPROPYLENE HERNIA
MESH PRODUCTS LIABILITY
LITIGATION**

Case No. 2:18-md-2846

**Judge Edmund A. Sargus, Jr.
Magistrate Judge Kimberly A. Jolson**

This document relates to:

Herman, et al. v. C.R. Bard, Inc., et al.

Case No. 2:19-cv-5536

AND

Herman v. Davol, Inc., et al.

Case No. 2:18-cv-1690

ORDER

On December 14, 2018, Plaintiff Lori Herman filed a complaint in this multidistrict litigation (“MDL”) (Case No. 18-cv-1690, ECF No. 1). In the complaint, Plaintiff asserts several claims based on alleged injuries caused by a Ventralex hernia mesh device implanted in 2011. (*Id.*) On December 19, 2019, through different counsel, Plaintiff, and Robert Herman as a consortium plaintiff, filed another complaint in this MDL alleging injuries caused by the 2011 Ventralex and another Ventralex implanted in 2015. (Case No. 19-cv-5536, ECF No. 1.) On June 27, 2023, Defendants filed a motion to dismiss Case No. 19-cv-5536 as duplicative of Case No. 18-cv-1690. (Case No. 19-cv-5536, ECF No. 3.) Plaintiff filed a response requesting that, in light of the consortium plaintiff and the additional device at issue in Case No. 19-cv-5536, the two cases instead be consolidated. Federal Rule of Civil Procedure 42(a) states:

(a) If actions before the court involve a common question of law or fact, the court may:

- (1) join for hearing or trial any or all matters at issue in the actions;
- (2) consolidate the actions; or
- (3) issue any other orders to avoid unnecessary cost or delay.

Fed. R. Civ. P. 42(a). Both cases raise claims regarding the 2011 Ventralex, while Case No. 19-cv-5539 raises additional claims regarding the 2015 Ventralex and loss of consortium. Defendants did not file a reply or indicate that they opposed consolidation, therefore the Court will treat the request for consolidation as unopposed. Accordingly, Defendants' motion to dismiss (Case No. 19-cv-5536, ECF No. 3) is **DENIED** and Plaintiff's request to consolidate (Case No. 19-cv-5536, ECF No. 4) is **GRANTED**.

IT IS SO ORDERED.

2/29/2024
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE